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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,540	03/01/2002	Russell Savio	60,518-012	8359

27305 7590 04/07/2005

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/082,540

Applicant(s)

SAVIO ET AL.

Examiner

Binh-An D. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,21-25 and 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,21-25 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Request for Continued Examination and the Amendment filed March 17, 2005 have been received. According to the Amendment, claims 1, 6-8, 21, and 38 have been amended; and claims 9-20, 26-37, 39, and 40 have been previously canceled. Currently, claims 1-8, 21-25, and 38 are pending in the application.

Note that, the instant application claims priority on U.S. Application 09/966,234, however, it appears that the instant application is a continuation-in-part of application 09/966234, and application 09/966234 has been abandoned prior to filing date of the instant application.

Further note that, applicants' submission of a copy of extension of time sent April 9, 2004 is not valid since the extension was for a different application, i.e., 09/966,468, therefore the current application is not accorded the priority date of the non-provisional application Serial No. 09/966,234.

Acknowledgment has been made.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 21-25, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Seelig et al. (6,802,777).

Seelig et al. teaches a video slot gaming machine, method, or computer program embodied in a medium (having computer readable program code means thereto) for playing by a player (Figures 1-2), comprising: a housing having a display device for displaying a plurality of game elements in a grid having a plurality of cells (52)(3:2-10) (Fig.1), wherein the cells represent a plurality of horizontal reels (abstract, lines 7-11); the game controller is adapted to animate the display device to represent the spinning (or sliding) of horizontal reels; a game controller (22) coupled to the display device (50) and the memory device (and random generator for randomly selecting the game elements to be displayed in the display device and for determining an outcome based on the displayed game elements (3:18-25), predetermined vertical pay-lines, and a wager made by the player (Fig. 3); said elements comprising a first, second, and third portions corresponding to a first character for aggregating said portions into said first character when said game elements are vertically aligned in said vertical pay-line (Figs. 1-3); the first, second, and third characters have different shapes and colors; the game controller is adapted to randomly select a game element for each cell; and select a stopping position for each array; and wherein the memory device is adapted to store a plurality of arrays of game elements (3:2-60).

Note, the limitation of a memory device (or means) for storing a pay-table (claims 1, 21, and 38), is inherent from the video slot machine which automatically pays out predetermined winning combinations.

Further, note that, the limitations of first, second, and third portions are further defined as a plurality of different heads, legs, and torso and arms to aggregately form a plurality of characters different from one another (claims 6, 21, and 38); and activating a bonus game (claim 6) are inherent from Seelig et al.'s teaching of utilizing a wide variety of subjects, i.e., movies stars, celebrities, politicians, etc. (3:5-25); and that the game of Seelig et al. could be utilized as a primary or a bonus game, wherein the primary game could be any type of game (4:43-61).

4. Applicant's arguments with respect to claims 1-8, 21-25, and 38 have been considered but are moot in view of the new ground(s) of rejection.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Seelig et al. (6,719,630) teaches an image alignment gaming device and method.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BN



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TC3700